**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**

**ORDINARY ORIGINAL CIVIL JURISDICTION**

**NOTICE OF MOTION NO. 2155 OF 2004**

**IN**

**SUIT NO. 693 OF 1980**

Syndicate Bank ..Plaintiffs

versus

M/s. Ahmed Woollen Mills

& Ors. ..Defendants

Ms. A. Ghone i/b. M/s. Kanga & Co. for the Plaintiffs.

Mrs. Indu Prashant for the Defendant No.3.

**CORAM : D. G. DESHPANDE,J.**

**DATE ; 20TH SEPTEMBER, 2004.**

**P.C. :**

. Heard Advocate for the Plaintiff and Defendant No.3 who has taken out this notice of motion for setting aside exparte decree. The suit was filed in 1980 and it came to be decreed on 24.11.1992 that is 12 years after filing of the suit. This notice of motion is taken out on 19.7.2004 i.e. nearly after more than 11 years of the passing of the decree.

. Advocate for the defendant No.3 relied upon the Judgment of this Court reported in 2003(3) Mh.L.J. 1003 Ashok Ravji Vadodriya vs. Municipal Corporation of Greater Bombay, where there was an error or lapse on the part of the clerk of the Advocate and to some extent of the advocate for the plaintiff in noting the dates of hearing and in that background the court held that it would not be appropriate to hold that it is the duty of litigant to attend Court and convey the adjourned date to his advocate. The court therefore held that the plaintiff cannot be made to suffer for fault of advocate. Dismissal order was ultimately set aside.

. Defendant No.3 in paragraph 2 has stated that they engaged Advocate in October 1980 and then they were shocked to receive two letters in 2004. Defendant No.3 wants the court to believe that for 12 years long they were waiting silently for letters of the Advocate. This story cannot be believed. The claim is only Rs.57,000/=. No case is made out. Notice of Motion is dismissed.

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